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AUG 30 2010

OFFICE OF PETITIONS

In re Application of
Michael T. COSTELLO et al
Application No. 10/731,600
Filed: December 9, 2003
Attorney Docket No. 0209-PA

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ON PETITION

This is in response to the "Petition under 37 CFR 1.183 August 26, 2009, to waive re-execution of Declaration of a non-cooperating inventor.

The petition is **DISMISSED**.

Petitioner requested the Office under 37 CFR 1.183, to waive the 37 CFR 1.64 requirement for Dr. Igor Riff, an inventor, to re-execute a Declaration for the above identified application. Authorization was given to charge the required fees to petitioner's deposit account.

On December 9, 2003 the instant application was filed. Subsequently it was discovered through error and without any deceptive intent that the inventorship required correction. Re-executed Declarations and a request to correct inventorship have been received by the Office. All inventors except Dr. Igor Riff have re-executed the Declaration. Petitioner indicates that after diligent efforts to have inventor Dr. Igor Riff sign, Dr. Igor Riff has refused to sign. Specifically, petitioner indicates that he was presented a copy of the Declaration and Power of Attorney along with a complete copy of the application as originally filed. Petitioner submits that diligent efforts have been made to contact inventor Dr. Igor Riff, and that he refuses to sign the appropriate declaration and power of attorney documents and that granting of this petition is necessary in order to preserve the rights of the parties or prevent irreparable damage.

A further review of the application file indicates that on August 17, 2009, the assignee representative received a communication from Dr. Igor Riff regarding his refusal to sign. The letter does not substantiate a refusal to sign, but presents a desire to "get familiar with the rules", hence appearing to constitute conditions necessary for his signature. A request for a condition necessary for signature does not constitute a non-signing inventor who refuses to sign. The petitioner has not presented an extraordinary situation, justifying waiver of 37 CFR 1.183,

when appropriate submissions under 37 CFR 1.47 do present applicant a means to protect the rights concerned parties. The petition is therefore dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
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The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571) 272-0602.

A handwritten signature in black ink, appearing to read 'Thurman K. Page', with a stylized flourish at the end.

Thurman K. Page
Petitions Examiner
Office of Petitions